REMARKS

Applicants thank the Examiner for his courteous and constructive discussions of June 11 and 16, 2003, wherein various cited art was discussed, as well as amendments to the claims. The amendments made herein clarify and claim particular aspects of the present invention and are based upon the discussions with the Examiner. The Examiner stated that in order to consider the discussed amendments, a request for continued examination (RCE) must be filed. This amendment and filing is made in accordance with the Examiner's suggestion. Accordingly, it is requested that the Examiner withdraw the final action of April 9, 2003 and consider the present entry.

New claim 42 is added, in accordance with the above discussions with the Examiner.

In the final action of April 9, 2003 claims 1, 2, 9-18, 20-25, 28, 32-40 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Cilento (US 5059189). These rejections are traversed. Applicant's respectfully point out that subject claims are directed to a calendered hydrocolloid dressing having, as a component, about 50% to about 100% ethylene based copolymer and co-monomer level of about 8% to about 28% (claims 1, 2, 9-18). Claims 20-25, 28, 32-40 and 42 are directed to a novel method of manufacture, comprising a calendering step wherein the adhesive composition is extruded and introduced between the second roll and a third roll to form a hydrocolloid dressing comprising a backing film layer and an adhesive layer where the adhesive composition is introduced and calendered directly onto the backing film layer such that formation of an adhesive layer of said adhesive composition and lamination of said adhesive layer to said backing film composition is achieved in a single manufacturing step. Such a step is not even remotely described in any cited reference.

Applicants respectfully point out that all elements of the claimed invention must be disclosed in a single reference for anticipation to exist. Atlas Powder Co. v. E. I. DuPont de Nemours & Co., 750 F.2d 1569, 224 U.S.P.Q. 409 (Fed. Cir. 1984). Missing elements cannot be supplied by the knowledge of one skilled in the art or the disclosure of another reference in order to give rise to an anticipation rejection. Structural Rubber Products Co. v. Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984).

Accordingly, Applicants respectfully request the Examiner to respectfully withdraw all 35 U.S.C. 102(b) rejections.

In addition, the Examiner has rejected claims 1, 2, 9-18, 20-25, 28, 32-40 and 42 under 35 U.S.C. 103(a) as being unpatentable over Cilento (US 5059189), stating that at the time the invention was made, one of ordinary skill in the art would adjust concentrations to adjust the thickness of the various layers and that thickness is determined by the active agent used and material utilized. These rejections are respectfully traversed. The Examiner has asserted other statements that rely on supposed inherent skill of one in the art. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." Continental Can Co. USA. Inc. v. Monsanto Co., 948 F.2d 1264, 1268-69, 20 U.S.P.Q. 2d 1746, 1749 (Fed. Cir. 1991) (quoting In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981)). In short, *there must be factual and technical grounds establishing that the inherent feature necessarily flows from the teachings of the prior art.* Ex parte Levy, 17 U.S.P.Q. 2d 1461, 1464 (Bd. Pat. App. & Int.'f 1990). Applicants respectfully request that the Examiner point out where in the Cilento reference one may find concordant limitations recited in the pending amended claims, may be found.

Likewise, applicants request the Examiner point out the same for the rejections of claims 3-5, 18, 19, 26 and 41 as being unpatentable under 35 U.S.C 103(a) over Cilento et al. in combination with Sablotsky et al (US 4994278) and in rejections of claims 6-8, 18, 29-31 and 41 under 35 U.S.C 103(a) as being unpatentable over Cilento et al. in combination with Sablotsky et al. and in further combination with Godbey et al. (US 5372819). All of these rejections are respectfully traversed. The use of the guidance of the claimed invention in an obviousness determination is hindsight. It has been specifically proscribed by the Federal Circuit in the determination of the existence or nonexistence of a prima facie case of obviousness. Interconnect Planning Co. v. Feil, 774 F.2d 1132, 227 U.S.P.Q. 543 (Fed. Cir. 1985). There is no teaching or suggestion found in the cited references, alone or in combination, that meet the limitations of the independent hydrocolloid dressing or method claims. Generic statements of what one of ordinary skill in the art would do in relation to concentration adjustments, thickness, use of "...any known polymeric component(s), backing layer characteristics, including color flexibility, etc..." as stated in the final action, are precisely hindsight and is not allowed,

particularly when pending claim limitations and the teachings of the present invention are compared to the cited references. As stated in Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc, "...Inventors, as a class, according to the concepts underlying the Constitution and the statutes that have created the patent system, possess something, which sets them apart from the workers of ordinary skill, and one should not go about determining obviousness under § 103 by inquiring into what patentees (i.e., inventors) would have known or would likely have done, faced with the revelation of references." Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416 (Fed. Cir. 1986). Accordingly, Applicants respectfully request that the Examiner withdraw all pending 35 U.S.C. 103(a) rejections.

In view of the above, it is submitted that this application is now in good order for allowance, and such early action is respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-2638.

Respectfully submitted,

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